

April 12, 2016

The regular meeting of the Council of the City of Martinsville, Virginia, was held on April 12, 2016, in Council Chambers, Municipal Building, at 7:30 PM with Mayor Danny Turner presiding. Council Members present included: Danny Turner, Gene Teague, Mark Stroud and Sharon Brooks Hodge. Staff present included: City Manager Leon Towarnicki, Assistant City Manager Wayne Knox, Clerk of Council Karen Roberts, Community Planner Susan McCulloch, Finance Director Linda Conover, Budget Analyst Mary Prillaman, Commissioner of Revenue Ruth Easley, Public Works Director Jeff Joyce, Senior Services Coordinator Betsy Pace, IT Director Esther Artis, and Police Chief Sean Dunn. Vice Mayor Bowles arrived at 8:10pm

Mayor Turner called the meeting to order and advised Council would go into Closed Session. In accordance with Section 2.1-344 (A) of the Code of Virginia (1950, and as amended) and upon a motion by Council Member Teague, seconded by Council Member Hodge, with the following 4-0 recorded vote: Council Member Hodge, aye; Council Member Stroud, aye; Council Member Teague, aye; and Mayor Turner, aye. Council convened in Closed Session for the purpose of discussing the following matters: (A) Appointments to boards and commissions as authorized by Subsection 1., (B) Discussion or consideration of the investment of public funds where competition or bargaining is involved where, if made public initially, the financial interest of the governmental unit would be adversely affected, as authorized by Subsection 6., and (C) Consultation with legal counsel and briefings by staff members, attorneys or consultants pertaining to actual or probable litigation, or other specific legal matters requiring the provision of legal advice by such counsel, as authorized by Subsection 7. At the conclusion of Closed Session, each returning member of Council certified that (1) only public business matters exempt from open meeting requirements were discussed in said Closed Session; and (2) only those business matters identified in the motion convening the Closed Session were heard, discussed, or considered during the Session. On a motion by Council Member Hodge, seconded by Council Member Teague, with the following 4-0 recorded vote in favor to return to Open Session: Council Member Hodge, aye; Mayor Turner, aye; Council Member Teague, aye; and Council Member Stroud.

Council Member Stroud made a motion to appoint Dr. John McCraw to the Patrick Henry Community College Board for a four-year term expiring June 30, 2020. Council Member Teague seconded the motion, all Council Members voted in favor.

Council Member Hodge made a motion to appoint Alicia Brown to the Comprehensive Services Act Community Policy and Management Team for a two-year term expiring December 31, 2017. Council Member Teague seconded the motion, all Council Members voted in favor.

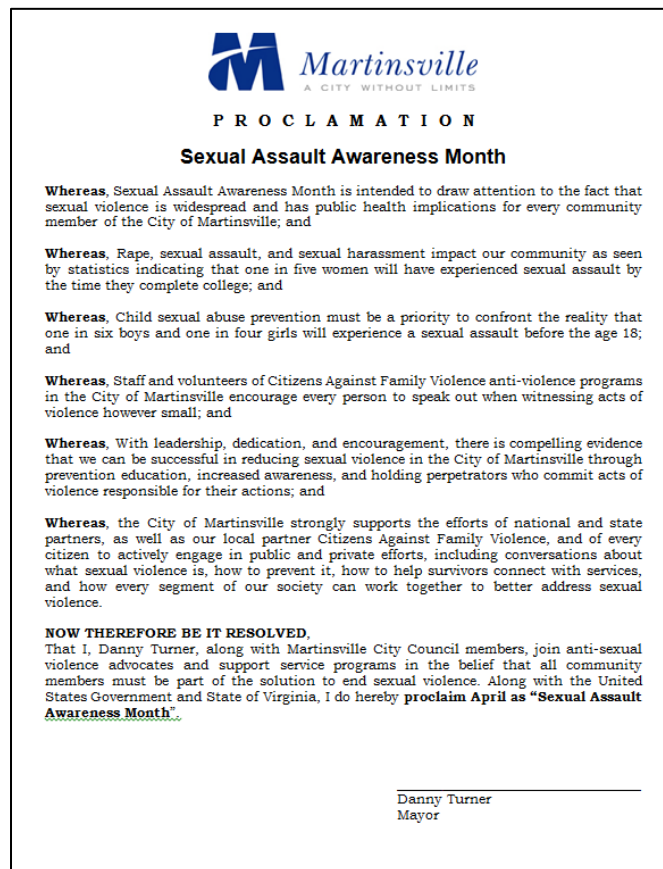
Following the invocation by Council Member Teague and Pledge to the American Flag, Mayor Turner welcomed everyone to the meeting.

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Consider approval of minutes of the March 21, 2016 Neighborhood Meeting and March 22 Council Meeting - on a motion by Council Member Hodge, seconded by Council Member Stroud, with a 4-0 Council vote in favor to approve, the minutes were approved as presented.

Recognize local resident Patricia Via and daughter Telesa Via for their work in regard to the MLC Cancer Foundation – a video was played for those in attendance. Council Member Hodge read the plaque presented to Patricia Via and Telesa Via. Patricia Via thanked Council for the recognition and explained the award and the testing process to those in attendance.

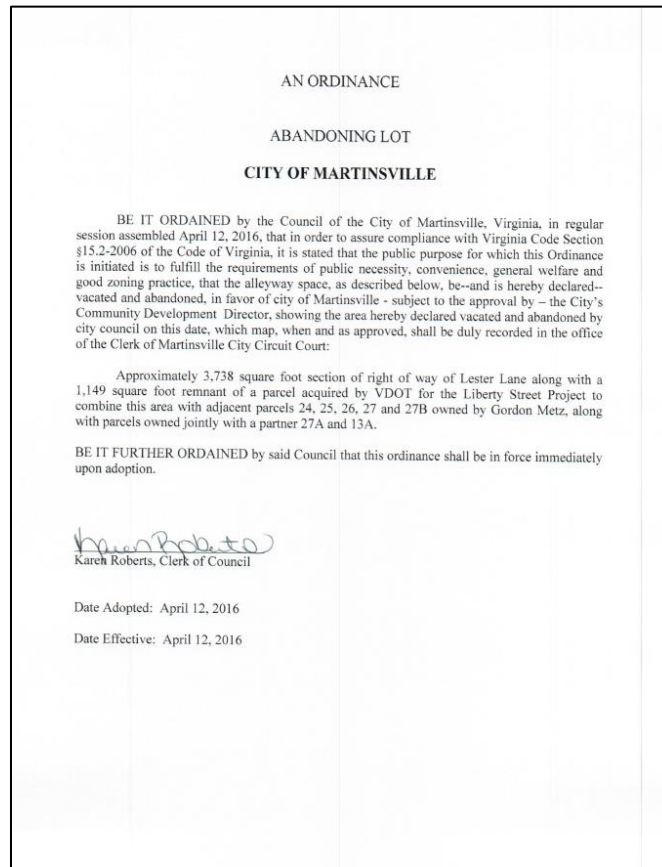
Presentation of proclamation recognizing April as Sexual Assault Awareness Month – Mayor Turner read the proclamation and Mary Jones, Citizens Against Family Violence Advocate was in attendance to receive the proclamation. Ms. Jones thanked Council Members for the recognition and said sexual assault reports are prevalent in the community. She asked residents to speak up if they see something going on. CAFV provides counseling and assistance to those who fall victim to sexual assault.



Conduct a public hearing regarding a request from Gordon Metz for the abandonment of a section of Lester Lane and a remnant of a parcel acquired for the Liberty Street project – Susan McCulloch explained the abandonment request made by Mr. Metz, the 6-0 vote by the Planning Commission to approve the abandonment per staff recommendation and the stipulations required of the property owner. Mr. Metz said he is trying to get the property “pad ready” for a future business and explained the process of preparing the lot. Mayor Turner opened the meeting to public hearing. No one approached the podium to speak. Mayor

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Turner closed the public hearing. Teague made a motion to abandon the property on Lester Lane subject to conditions outlined in the document, Stroud seconded the motion. All Council Members in attendance voted in favor. Teague made a motion to abandon the 1,149sf remnant of a parcel acquired for the Liberty Street Project at end of Lester Lane; Stroud seconded the motion, all Council Members in attendance voted in favor.



Set a public hearing as required under the exemption ordinance enacted in January 2007 for consideration of the organization's local tax exemption request – City Manager Towarnicki explained the exemption ordinance and requested Council Members set a public hearing for April 26, 2016. Council Member Hodge made a motion to set the public hearing for April 26, 2016, Council Member Teague seconded the motion with all Council Members voting in favor.



GUIDELINES FOR CONSIDERING REQUESTS FOR EXEMPTIONS FROM LOCAL TAXATION

Article X, §6(a)(6) of the Constitution of Virginia and Code of Virginia 58.1-3651 authorize local governing bodies to provide exemptions from local taxation for the real and/or personal property owned by non-profit organizations that use the property exclusively for religious, charitable, patriotic, historical, benevolent, or cultural purposes or as dedicated public parks or playgrounds. The local governing body must adopt an exemption ordinance establishing the restrictions and conditions of the tax exemption.

Exemptions as provided by Code of Virginia §58.1-3600 – 58.1-3650, 1001, or any other general or special act of the Virginia General Assembly prior to January 1, 2003 will continue to be effective provided the property is owned and used in conformance with the provisions of law that provided the exemption. Exempt properties will be subject to a triennial review to ensure continued compliance with the exemption provisions.

Exemptions may be granted by the Martinsville City Council to organizations that meet a general public need for services provided to the community at-large which exceed the City's loss in revenue from taxes assessed on the organization's real and personal property. Exemptions will not be granted to organizations that have rules, regulations, policies or practices that unlawfully discriminate on the basis of religious conviction, race, color, sex or national origin.

Application Procedures:

1. A non-profit organization seeking exemption from its real or personal property, or both, must file an application with the Commissioner of the Revenue.
2. The Commissioner of the Revenue will conduct an initial review of each application to determine if the applicant qualifies for a state code exemption. If an applicant does not meet the criteria for a state code exemption, but may be eligible for a local exemption granted by the Martinsville City Council, then the application will be forwarded to the

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City Manager for review and to report his findings to the City Council. Local exemption designations will only be considered by the City Council during its annual budget process. Applications for a local exemption determination must be filed with the Commissioner of the Revenue by November 1st.

3. As part of the application process, the organization shall provide the following information: names and addresses of officers, directors, managing members, trustees or partners as applicable; a statement of the salaries or other compensation, if any, received by the 3 highest paid employees of the organization; a complete description of the property for which the exemption is sought (for real estate, the organization shall list the gross square footage of any improvements and indicate the square footage that will be used by the applicant organization for their exempt purpose); a description of the property use and how it relates to the qualifying exemption; and a completed Exemption Criteria Review Questionnaire (see Review Criteria below).
4. The applicant organization must also provide copies of the organization's Internal Revenue Service determination letter; its Articles of Incorporation or Organization along with any amendments to the Articles; Organization By-Laws; and Certificate of Good Standing from the State Corporation Commission.
5. If requested by the Commissioner of the Revenue, the organization shall provide copies of its federal and state returns and its financial statements for the prior two years.
6. A public hearing will be conducted by the City Council on the application for local exemption. Notice of the hearing will be published at least once in a newspaper of general circulation at least 5 days prior to the public hearing.
7. Local exemptions shall be granted only by ordinance by the Martinsville City Council after conducting a public hearing. The ordinance shall specify the use that is the basis for the local exemption, stipulate that the continuance of the local exemption is contingent on the applicant organization's continued use of the property in accordance with the purpose for which the organization is designated or classified, and shall contain any other conditions or restrictions as determined by the Martinsville City Council.
8. If the Martinsville City Council grants an exemption, it will become effective for the tax year effective date for which the exemption is granted (January 1st for personal property, July 1st for real estate.)

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9. Once granted, a local exemption will be effective until the organization no longer qualifies, until the specific use on which the local exemption is based ceases, or until revoked by the Martinsville City Council as provided by law, whichever occurs first.
10. State code exemptions granted, as determined by the Commissioner of the Revenue, will be effective until the organization no longer qualifies or the specific use on which the exemption is based ceases.
11. Any organization that is granted a state code or local exemption shall file a renewal application with the Commissioner of the Revenue every three years as a requirement for retention of the exemption.

Review Criteria:

Before adopting an ordinance granting a property exemption the City Council is required by Code of Va. 58.1-3651 to consider the following:

- 1) Whether the organization is exempt from taxation pursuant to §501 (c) of the Internal Revenue Code of 1954;
- 2) Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to such organization, for use on such property;
- 3) Whether any director, officer or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered by such director, officer or employee;
- 4) Whether any part of the net earnings of such organization inures to the benefit of any individual;
- 5) Whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services;
- 6) Whether the organization provides services for the common good of the public;
- 7) Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office; and
- 8) The revenue impact to the City and its taxpayers of exempting the property.

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- 9) The City Council should consider the following criteria, facts and circumstances as may be pertinent:
 - (a) Whether the organization is current on all its obligations to the City;
 - (b) Whether the organization is in compliance with all City ordinances and regulations, including (but not limited to) building, subdivision and zoning ordinances;
 - (c) Whether the property for which the exemption is sought relates to the purposes for which the organization was created and tends to directly promote those purposes;
 - (d) Whether the service(s) provided by the organization are services the City would provide if the requesting organization did not do so;
 - (e) Whether the organization meets a general public need for which the benefits derived by the community at-large are equivalent to or exceed the City's loss in revenue from taxes on the entity's real and personal property;
 - (f) Whether the service(s) provided by the organization meet an established priority of the City Council; and
 - (g) Any other criteria, facts and circumstances that the Council may deem appropriate and pertinent.

Triennial Review; Revocation of Exemption:

1. With the exception of the United States and the Commonwealth, or any political subdivision thereof, any organization which has been granted exemption from taxation shall file an application with the Commissioner of the Revenue every three (3) years as a requirement for retention of the exemption granted.
 - a. Review applications under this paragraph shall be filed with the Commissioner of the Revenue not later than December 31st of the year preceding the tax year for which such exemption is sought to be continued.
 - b. Review applications shall include the following information –
 - (1) The ownership of the property;
 - (2) The use of the property;
 - (3) Whether the organization has any rule, regulation, policy or practice that discriminates on the basis of religious conviction, race, color, sex or national origin;

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- (4) Whether the organization is current on all its obligations to the City;
 - (5) Whether the organization is in compliance with all City ordinances and regulations, including (but not limited to) building, subdivision and zoning ordinances;
 - (6) Whether the organization has attempted to influence legislation, has participated in, or intervened in, any political campaign on behalf of any candidate for public office;
 - (7) The names and addresses of officers, directors, managing members, trustees or partners, as applicable;
 - (8) A current statement of the salaries or other compensation, if any, paid to officers and directors of the organization;
 - (9) A current statement of the salaries or other compensation, if any, received by the 3 highest-paid employees of the organization;
 - (10) A current Certificate of Good Standing from the State Corporation Commission; and
 - (11) If requested by the Commissioner of the Revenue, copies of its federal and state tax returns and its financial statements for the preceding year.
- c. The Commissioner of the Revenue shall conduct an initial evaluation of each review application and any supporting materials using the criteria listed in Section B, above, and shall submit a written report summarizing her evaluation to the City Manager. The Commissioner's report shall specifically address the criteria in Section B. The City Manager will subsequently report those findings to the City Council.

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Exemption Definitions

As Defined by Va. Courts

Benevolent – Philanthropic; humane; having a desire or purpose to do good to men; intended for conferring benefits, rather than for gain or profit. (Manassas Lodge No. 1380, Loyal Order of Moose, Inc. v. County of Prince William, 218 Va. 220, 237 S.E. 2d 102 (1977))

Charitable – Liberal in benefactions to the poor; beneficent. (City of Richmond v. United Givers Fund of Richmond, Henrico & Chesterfield, Inc., 205 Va. 432, 137 S.E. 2d 876 (1964))

NOTE: A charitable organization should be organized and conducted to perform some service of public good or welfare based on the above mentioned court cases.

As Defined by Va. Constitution Article X §6

Educational Exemption – Limited to institution of learning operated not for profit, provided the property is used for literary, scientific, or educational purposes or purposes incidental thereto.

As Defined by Webster's New Collegiate Dictionary

Cultural – Of or relating to enlightenment and excellence of taste acquired by intellectual and aesthetic training; acquaintance with and taste in fine arts, humanities, and broad aspects of science as distinguished from vocational and technical skills.

Educational – The field of study that deals mainly with methods of teaching and learning in schools.

Historical – Of or relating to a branch of knowledge that records and explains past events.

Museum – An institution devoted to the procurement, care, study, and display of objects of lasting interest or value, a place where objects are exhibited.

Patriotic – Befitting or characteristic of a patriot (one who loves his country and zealously supports its authority and interests.)

EXEMPTION CRITERIA TO CONSIDER

Pursuant to Code of Virginia §58.1-3651, the local governing body shall consider the following questions before granting an exemption from local taxation to any nonprofit organizations:

1. Whether the organization is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code of 1954;
2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to such organization, for use on such property;
3. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders;
4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services;
5. Whether the organization provides services for the common good of the public;
6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;
7. The revenue impact to the locality and its taxpayers of exempting the property; and
8. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such ordinance.

Other Exemption Criteria Not Specifically Identified in Code of Virginia §58.1-3651

The City Council should consider the following criteria, facts and circumstances as may be pertinent:

- (a) Whether the organization is current on all its obligations to the City;
- (b) Whether the organization is in compliance with all City ordinances and regulations, including (but not limited to) building, subdivision and zoning ordinances;
- (c) Whether the property for which the exemption is sought relates to the purposes for which the organization was created and tends to directly promote those purposes;
- (d) Whether the service(s) provided by the organization are services the City would provide if the requesting organization did not do so;
- (e) Whether the organization meets a general public need for which the benefits derived by the community at-large are equivalent to or exceed the City's loss in revenue from taxes on the entity's real and personal property;
- (f) Whether the service(s) provided by the organization meet an established priority of the City Council; and
- (g) Any other criteria, facts and circumstances that the Council may deem appropriate and pertinent.

Comments by members of City Council – Council Member Stroud said the Martinsville

race has come and gone and said aside from cold temperatures it was a good weekend for Martinsville. He said this spring in the City is prettier than years past and he thanked the

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City crews for the trash pickup and keeping the streets clean. Council Member Hodge congratulated Helen Howell for receiving an award from the National Society of Black Engineers. Mayor Turner added that Ms. Howell would be recognized Wednesday April 19, 2016 by the General Assembly. He summarized his trip to the Japanese embassy in Richmond along with Vice Mayor Bowles. He said it was a great honor to be included in this event. Vice Mayor Bowles added that she and the Mayor met and networked with several important people at the Japanese embassy. She and Mayor Turner also attended the second annual Don't Count Me Out event in the community.

Comments by City Manager – Leon Towarnicki said Monday April 25, 2016 will be the next Neighborhood Council meeting for Southside community at Fuller Memorial Church. He spoke of the beautiful flowerbed in front of the municipal building and recognized Carrie Zimmer for her work and said she was assisted by some of the City inmates. He mentioned that the School Board work session scheduled for Thursday April 14, 2016 may need to be rescheduled due to a couple of Council Members and School Board Members scheduling conflict.

City Manager FY17 Proposed Budget presentation – City Manager Towarnicki presented a PowerPoint to detail the FY17 proposed budget. Council Member Hodge asked if there could be studies to find out what impact the proposed meals tax increase would have on local restaurants. Hodge requested details on how reducing the Finance Department staff would affect that department. Stroud asked how many citizens use the Senior Services on a daily basis. Hodge asked for confirmation that the Water and Sewer rate increase was \$3.00 each and not a combined total. Bowles clarified for the citizens that most residents do not reach the 4,000 gallon water usage minimum. Towarnicki stated that twice as much work went into this budget than any other that he's been involved in and thanked the City departments for their cooperation. He extended a special thanks to Linda Conover in Finance, Assistant City Manager Wayne Knox and the Human Resources Department. He will let Council know when a decision is made regarding the April 14, 2016 work session. There are also work sessions scheduled for April 19 and 21, 2016. He asked Council to set the public hearing for April 26, 2016 with second reading on May 10, 2016. Vice Mayor Bowles made a motion to set the public hearing for April 26, 2016. Council Member Hodge seconded the motion with all Council Members in favor. Hodge thanked Towarnicki for the hard work put into the budget preparation. She asked if there was a dollar amount associated with the removal of the Senior Services program. Towarnicki said he would get her a more accurate amount.

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Business from the Floor *(not televised)* – Joe Martin, East Church Street – he’s been working with a group questioning the I73 corridor, those members request that they be added to a future agenda in relation to the I73 corridor concerns.

There being no further business, a motion was made by Teague to adjourn the meeting, seconded by Stroud with all Council Members voting in favor. The meeting adjourned at 9:25pm.

Karen Roberts
Clerk of Council

Danny Turner
Mayor